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VIA ECF

Hon. J. Paul Oetken
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: ***SEC v. Terraform Labs Pte Ltd. et ano.*, Case No.: 1:21-mc-00810 (JPO)**

Dear Judge Oetken:

On behalf of Respondents Terraform Labs PTE, Ltd. ("TFL") and Do Kwon (collectively, "Respondents"), I write to address three issues relating to the *Corrected Response to Respondents' Letter-Motion for a Stay Pending Appeal* (ECF No. 33) ("SEC Letter"). *First*, the irreparable harm cases cited by the SEC (SEC Letter at 3–4) are not binding on this Court.[1] *Second*, the cases cited by TFL and Mr. Kwon finding irreparable harm are more consistent with the Supreme Court's discussion from *Church of Scientology of California v. United States*, 506 U.S. 9, 13 (1992), a case the SEC failed to address. *Third*, the SEC's response regarding the appeal presenting an issue of first impression (SEC Letter at 2) ignores the undisputed facts that (i) no court has ever construed Rule 150(b) and (ii) the only court submission by the SEC addressing Rule 150(b) is inconsistent with the SEC's current interpretation. *Cf. Lever Bros. Co. v. United States*, 981 F.2d 1330, 1337 (D.C. Cir. 1993) ("inconsistent litigating positions" by an agency are "undeniably relevant" to the proper construction of an agency's governing statute).

Respectfully submitted,
Dentons US LLP
/s/ Douglas W. Henkin
Douglas W. Henkin

cc: All counsel of record by ECF

[1] Although issued by the Second Circuit, *Faiveley Transp. Malmo AB v. Wabtec Corp.*, 559 F.3d 110 (2d Cir. 2009), has nothing to do with Respondents' request for a stay pending appeal. In that case, the Second Circuit found that a showing of irreparable harm in the context of a preliminary injunction was defeated by the availability of money damages (559 F.3d at 118)—a remedy the SEC does not suggest is available here.